

AMENDED IN ASSEMBLY APRIL 23, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2073**

**Introduced by Assembly Member Canciamilla**

February 19, 2002

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~~An act to add Section 721.5 to the Revenue and Taxation Code, relating to taxation. An act to add Chapter 3.5 (commencing with Section 6470) to Division 3 of the Public Utilities Code, and to add Section 100.8 to the Revenue and Taxation Code, relating to local government finance.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2073, as amended, Canciamilla. ~~Property—taxation: state-assessed property~~ *Local government finance: revenues derived from electric generation facilities.*

*Existing law authorizes cities, counties, and cities and counties to grant franchises that allow entities to build infrastructure related to the transmission of electricity across public property, and to impose surcharges upon the transmission and distribution of electricity.*

*This bill would, if a city annexes territory that contains an electric generation facility, require that the county in which that city is located continue to receive the revenues derived from franchises and surcharges that the county received prior to that annexation. This bill would also state the intent of the Legislature that these provisions supersede any provision of law that is contrary to these provisions.*

*The California Constitution requires the State Board of Equalization to assess the property, other than franchises, of companies transmitting or selling gas or electricity. Existing property tax law provides for the*

*unit valuation, of properties of a state assessee that are operated as a unit as a primary function of that assessee, and for the allocation of the assessed value of the unit among various counties in which the state-assessee's unitary property is located. Existing law also provides, pursuant to specified formulas, for the application in each county of specified tax rates to unitary assessed value, and for the allocation among jurisdictions in that county of the resulting revenues.*

*This bill would, if a city annexes territory that contains an electric generation facility, require that the county in which that city is located continue to be allocated the same proportion of property tax revenues derived from that facility that the county received prior to that annexation. This bill would also state the intent of the Legislature that these provisions supersede any provision of law that is contrary to these provisions.*

~~The California Constitution requires the State Board of Equalization to assess the property, other than franchises, of companies transmitting or selling gas or electricity. Existing regulations require the board to assess an electric generation facility, for purposes of this constitutional provision, only if (1) the facility was constructed pursuant to a certificate of public convenience and necessity issued by the California Public Utilities Commission to the company that presently owns the facility or (2) the company owning the facility is a state assessee for reasons other than its ownership of the generation facility or its ownership of pipelines, flumes, canals, ditches, or aqueducts lying within 2 or more counties.~~

~~This bill would codify this board regulation, and invalidate any other regulations that are in conflict with the bill's provisions. This bill would also make legislative findings and declarations regarding the bill's purpose.~~

Vote: majority. Appropriation: no. Fiscal committee: yes no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     ~~SECTION 1. Section 721.5 is added to the Revenue and~~
- 2     ~~SECTION 1. Chapter 3.5 (commencing with Section 6470) is~~
- 3     ~~added to Division 3 of the Public Utilities Code, to read:~~
- 4

CHAPTER 3.5. COUNTY RETENTION OF FRANCHISE FEE AND  
SURCHARGE REVENUE

6470. (a) Notwithstanding any other provision of law, if a city annexes territory containing an electric generation facility, in the fiscal year of that annexation and in each fiscal year thereafter, the county in which that city is located shall continue to receive the revenues that the county received prior to that annexation from all franchise fees and surcharges imposed pursuant to this division upon that electric generation facility and any pipelines and electric transmission lines connected thereto, including, but not limited to, franchise fees for pipelines and electric transmission lines and surcharges for the gas or electricity passing through these pipelines and electric transmission lines.

(b) It is the intent of the Legislature that subdivision (a) supersede any provision of any law that is contrary to that subdivision.

SEC. 2. Section 100.8 is added to the Revenue and Taxation Code, to read:

100.8. (a) Notwithstanding any other provision of law, if a city annexes territory containing an electric generation facility, in the fiscal year of that annexation and in each fiscal year thereafter, the county in which that city is located shall continue to be allocated the same portion of property tax revenues derived from that facility that the county received prior to that annexation.

(b) It is the intent of the Legislature that subdivision (a) supersede Section 99 and any provision of any law that is contrary to that subdivision.

~~Taxation Code, to read:~~

~~721.5.—(a) An electric generation facility shall be assessed by the board for purposes of Section 19 of Article XIII of the California Constitution only if one of the following conditions is met:~~

~~(1) The electric generation facility was constructed pursuant to a certificate of public convenience and necessity issued by the California Public Utilities Commission to the company that presently owns the facility.~~

~~(2) The company that owns the electric generation facility is a state assessee for reasons other than its ownership of the generation~~

1 facility or its ownership of pipelines, flumes, canals, ditches, or  
2 aqueducts lying within two or more counties.

3 (b) This section shall be construed to supersede any regulation  
4 that is contrary to this section.

5 (c) This section shall be effective for the assessment year  
6 beginning on or after January 1, 2003, and each year thereafter.

7 SEC. 2.— In enacting this act, the Legislature finds and declares  
8 all of the following:

9 (a) Prior to the enactment of Chapter 854 of the Statutes of  
10 1996, all electric generation facilities that were owned by public  
11 utilities were assessed on a unitary basis by the State Board of  
12 Equalization.

13 (b) This unitary assessment by the board was appropriate  
14 because electric generation facilities were owned by public  
15 utilities and, as such, were not treated as separate pieces of  
16 property, but only as part of a utility's entire system of electric  
17 production and distribution, including powerplants, high voltage  
18 transmission lines, transformers, and local transmission lines.

19 (c) As part of the implementation of Chapter 854 of the Statutes  
20 of 1996, new wholesale generators purchased existing electric  
21 generation facilities from public utilities, and began construction  
22 of new facilities.

23 (d) These wholesale generators are not regulated public  
24 utilities under the Public Utilities Code.

25 (e) Electric generation facilities that are owned by wholesale  
26 generators are not part of the retail electricity distribution system,  
27 but rather are stand-alone facilities similar to an oil refinery,  
28 cement plant, or other production facility.

29 (f) Consistent with Section 19 of Article XIII of the California  
30 Constitution and longstanding board policy, in 1999, the board  
31 enacted a regulation (18 Cal. Code Regs. 905) that required that  
32 electric generation facilities not operated under a certificate of  
33 public convenience and necessity be assessed by county assessors  
34 on a nonunitary basis of valuation.

35 (g) County assessment of electric generation facilities owned  
36 by wholesale generators will, in the long term, result in a higher,  
37 more stable revenue source for local governments than state  
38 assessment, and will lead to a distribution of property tax revenue  
39 to local governments in a manner that is proportionate to the local  
40 impacts of electric generation facilities.

1     ~~(h) Local governments should retain control over the property~~  
2     ~~tax revenue generated by these facilities as a means of creating the~~  
3     ~~incentives for siting these plants within their jurisdictions.~~

4     ~~(i) It is the intent of the Legislature in enacting this act to ensure~~  
5     ~~that county assessors continue to assess electric generation~~  
6     ~~facilities that are owned by wholesale generators, and that these~~  
7     ~~facilities be assessed on a nonunitary valuation basis.~~

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